

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

A SPECIAL ORDER

ISSUED TO

**HIGHLAND OIL COMPANY, INC., &
MAURY RIVER OIL COMPANY, INC., &
REYNOLDS CHEVRON, INC.**

SECTION A: Purpose

This is a Special Order by consent issued under the authority of Va. Code §§ 62.1-44.15 (8a), 8(d), and 62.1-44.34:20 by the State Water Control Board between the Board and Highland Oil Company, Inc., Maury River Oil Company, Inc., and Reynolds Chevron, Inc., to resolve certain violations of the State Water Control Law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

2. "Va. Code" means the Code of Virginia (1950), as amended.
3. "The Companies" refers collectively to Highland Oil Company, Inc., Maury River Oil Company, Inc., and Reynolds Chevron, Inc.; all incorporated in the State of Virginia. The individual corporate entities are referred to as "Highland Oil," "Maury River," and "Reynolds Chevron."
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
5. "Director" means the Director of DEQ.
6. "The facility" means the retail gasoline stations and bulk oil plants and their accompanying USTs and/or ASTs identified in Section C.
7. "Order" means this document, also known as a Consent Special Order.
8. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
9. "UST" means underground storage tank.
10. "AST" means aboveground storage tank.
11. "The UST Compliance Regulation" means provisions of 9 VAC 25-580-10 *et seq.* (Underground Storage Tanks: Technical Standards and Corrective Action Requirements) relating to the upgrading of existing UST systems, registration of tanks, and closure of non-compliant tanks.
12. "The LUST Regulation" means provisions of 9 VAC 25-580-10 *et seq.* (Underground Storage Tanks: Technical Standards and Corrective Action Requirements) relating to the reporting, assessment, and clean-up of releases of petroleum from UST systems.
13. "The AST Regulation" means 9 VAC 25-91-10 *et seq.* (Facility and AST Regulation), which requires registration of ASTs, pollution prevention measures, and oil discharge contingency plans.
14. "The FR Regulation" means 9 VAC 25-590-10 *et seq.* (Virginia Petroleum Storage Tank Financial Responsibility Requirements Regulation).
15. "ODCP" means oil discharge contingency plan.

16. "NOV" means Notice of Violation.
17. "IAMR" means initial abatement measures report as specified in 9 VAC 25-580-250.
18. "SCR" means site characterization report as specified in 9 VAC 25-580-260.
19. "CAP" means corrective action plan as specified in 9 VAC 25-580-280 and 25-580-290.
20. "Responsible Person" as defined in Va. Code § 62.1-44.34:8 means any person who is an owner or operator of a UST or AST at the time a release is reported to the Board.
21. "SEP" means Supplemental Environmental Project as defined in Va. Code § 10.1-1186.2(A).

SECTION C: Findings of Fact and Conclusions of Law

General Provisions:

1. The UST Compliance Regulation requires that all USTs meet final, specific performance requirements for spill and overfill protection and corrosion protection by December 22, 1998. The Regulation further requires registration of all tanks and closure of tanks which do not comply with final requirements. The Regulation has required leak detection for tanks since 1993.
2. The LUST Regulation requires that all suspected or confirmed releases of petroleum from regulated UST systems be reported to DEQ. The responsible party must investigate all suspected and confirmed releases, and if required by DEQ, must carry out corrective action which may include free product removal, provision of an alternative drinking water supply, and other actions.
3. The AST Regulation and Va. Code § 62.1-44.34:15 require all owners of regulated ASTs to have an approved ODCP in place. Va. Code § 62.1-44.34:15.1 and the AST Regulation also mandate pollution prevention measures to prevent oil discharges from these facilities and set registration, notification, and closure requirements for the regulated ASTs.
4. The FR Regulation requires owners and operators of USTs to demonstrate financial responsibility for any corrective action and/or third-party liability made necessary by accidental releases from the USTs.
5. Va. Code § 62.1-44.34:11(G) requires the Board to recover certain costs and expenses incurred by the Commonwealth for the investigation, containment, and cleanup of a discharge of

oil against any person liable for a discharge of oil as specified in Article 11 of the State Water Control Law.

6. Highland Oil, Maury River, and Reynolds Chevron are all UST owners and/or operators within the meaning of Virginia Code §§ 62.1-44.34:8 and 62.1-44.34:14. Lawrence H. Watson, Jr., is the President, Treasurer, and the Registered Agent for all three corporations.
7. On January 13, 2000, DEQ requested that Lawrence Watson provide a financial responsibility demonstration for Highland Oil and Reynolds Chevron. The FR Regulation requires that evidence be maintained at each UST site demonstrating the ability to pay for corrective action and third party liability claims in the event of a release from the USTs. This evidence must be provided to DEQ when there has been a confirmed release or upon request of DEQ. DEQ requested a response by February 15, 2000.
8. Watson provided a financial responsibility demonstration for Highland Oil and Reynolds Chevron on June 14, 2000. These demonstrations were deemed inadequate by DEQ, and DEQ requested by letter dated August 18, 2000, that Highland Oil correct the deficiencies within 10 days of receipt of the letter. Both Highland Oil and Reynolds Chevron have addressed the deficiencies and provided an adequate demonstration of financial responsibility.
9. Maury River has provided information to DEQ to demonstrate that it does not own USTs, thus is not subject to the FR regulation.

Bulk Plant

AST facility owned by Highland Oil in Monterey, VA

Facility ID No. 6-016925

PC 00-6178

1. On July 7, 2000, DEQ inspected the ASTs at the Highland Oil bulk plant located in Monterey in Highland County, and documented numerous deficiencies in an AST facility checklist. This checklist was sent to Mr. Watson on July 26, 2000, in Warning Letter No. 00-07-VRO-013 which documented apparent violations of the AST regulations. The Warning Letter contained a request that the company submit an explanation of corrective actions and a schedule by August 1, 2000. The compliance deficiencies are summarized in Appendix A.
2. During the inspection, DEQ observed a fuel tanker located next to the loading rack. The tanker was disconnected from its tractor and was supported by railroad ties. It was in use for fuel storage, but was not registered. An ongoing leak from the connections on the tanker was observed by DEQ. DEQ also noted the presence of a vent pipe that did not correspond with any registered UST.

3. DEQ assigned pollution complaint no. PC 00-6178 to the confirmed release and by letter dated June 20, 2000, requested that Highland Oil submit an IAMR by July 20, 2000, and an SCR by August 19, 2000, to address the release.
4. Highland Oil submitted a letter October 24, 2000, detailing corrective measures taken on site. DEQ staff inspected the site that day and confirmed that contaminated soil had been removed and stockpiled. Highland Oil also submitted proper registration for the "orphan" UST whose vent pipe was noted during the inspection. DEQ has requested additional soil sampling of the stockpiled soil, which Highland has agreed to provide in accordance with Appendix A.
5. DEQ met with the Watsons to discuss the outstanding AST violations on site. The Watson agreed to submit an ODCP permit application by February 9, 2001, and to address the remaining AST pollution prevention deficiencies in accordance with the schedule set forth in Appendix A. The ODCP application was not submitted to DEQ by this date, and the inspection deficiencies have not been corrected. NOV No. 01-03-VRO-3 was issued March 20, 2001, by DEQ to Highland Oil for the apparent violations. Highland Oil agrees to correct the remaining deficiencies in accordance with the schedule in Appendix A.
6. Highland Oil submitted an ODCP for the facility on August 15, 2001, and submitted the ODCP permit application and fee to DEQ on February 13, 2002.

East Lexington Store

UST facility owned by Highland Oil at 2 Old Buena Vista Road, Lexington, VA 24450

Facility ID No. 6-016928

1. This UST facility has 4 tanks registered to Highland Oil. Highland Oil failed to meet the December 22, 1998, deadline for UST compliance at this facility as required by the Regulation. The failure was documented by a DEQ inspection of the facility conducted on August 11, 1999, in Warning Letter No. 99-08-VRO-003 issued by DEQ on August 12, 1999, and in NOV No 99-VRO-12-002 issued by DEQ on December 20, 1999, which cited an apparent violation of the UST Compliance Regulation. The compliance deficiencies are summarized in Appendix A.
2. Highland Oil stated by letter August 20, 1999, in response to the Warning Letter that the facility upgrade had been delayed because VDOT road widening was underway which would necessitate moving the fuel island and installing new product lines.
3. Highland Oil responded to the NOV by letter of February 12, 2000, and stated that the fuel island had been moved and some of the facility had been upgraded. The company was in the

process of removing one 550 gallon UST and filling another 550 gallon UST with slurry. The project would be completed as soon as contractors were available and VDOT requirements were completed. A second letter from Highland Oil on October 13, 2000, stated that work had been delayed due to injury of the contractor, and would be completed as soon as possible.

4. Highland Oil completed the closure of the two kerosene tanks on November 1, 2000, and provided all necessary closure documentation except soil samples from the tank basin and beneath the dispensers and piping.
5. The two remaining tanks on site have spill and overfill protection, but still need corrosion protection on tanks and piping. Highland Oil agrees to complete this work and provide assurance to DEQ that regulatory requirements have been met in accordance with the schedule in Appendix A.

Kerr's Creek General Store

UST facility owned by Highland Oil at 2602 W. Midland Trail, Lexington, VA 24450

Facility ID No. 6-016929

PC No. 99-5230 (Gaines diesel release)

PC No. 00-6066 (Highland Oil gasoline release)

1. This UST facility has three registered gasoline USTs in place owned by Highland Oil, and had one diesel UST owned by the facility operator, Jenny Gaines. The operator voluntarily stopped selling gasoline on December 22, 1998.
2. Highland Oil failed to meet the December 22, 1998, deadline for UST compliance at this facility as required by the Regulation. The failure was documented by DEQ during inspections of the facility conducted on June 18, 1999, and July 9, 1999, in Warning Letter No. 99-06-VRO-004 issued on June 18, 1999, and in NOV No 99-12- VRO-005 issued by DEQ on February 2, 2000, which cited an apparent violation of the UST Compliance Regulation. Corrective actions to address the compliance deficiencies are summarized in Appendix A.
3. On June 15, 1998, Jenny Gaines removed her registered diesel UST, and found petroleum contamination of soils by diesel and gasoline. The release was reported to DEQ, and was assigned a pollution complaint number PC 99-5230.
4. On July 1, 1999, DEQ received confirmation of gasoline contamination of soils on site. DEQ requested that Highland Oil submit an IAMR by August 16, 1999, and an SCR by September 14, 1999, for the gasoline release and encouraged Highland Oil to coordinate with Ms. Gaines in the investigation and cleanup of the release. Ms. Gaines conducted initial soil and groundwater monitoring, and submitted an IAMR on November 30, 1999. Free product and

contaminated soils were removed from the diesel tank basin.

5. Ms. Gaines submitted an SCR on December 8, 1999. The report confirmed soil and water contamination, and recommended further characterization of the extent of the release. The SCR also recommended ongoing monitoring, removal of the gasoline USTs on site, and a pilot study for free product removal.
6. The NOV issued to Highland Oil on February 2, 2000 (item 2, above), also cited the confirmed release of petroleum on site, and stated that Ms. Gaines had agreed to perform the initial work to characterize the release. The NOV was sent certified mail and was returned to DEQ as unclaimed on March 27, 2000. DEQ resent the NOV that day via certified and regular mail.
7. Ms. Gaines submitted an SCR Addendum on March 23, 2000. The Addendum documented residual and free phase gasoline in the vicinity of the pump island and found elevated dissolved phase gasoline, including the additive MTBE, in site monitoring wells. The consultant also found elevated total lead concentrations throughout the site and in a drinking water well that serves the store and a rental house. The report recommended removal of the gasoline tanks, lines, and dispensers; removal of contaminated soil and water; installation of recovery wells; and a CAP for site clean-up.
8. DEQ provided these results to Highland Oil, and by letter of May 20, 2000, informed Highland Oil that significant free-phase gasoline had been found. The letter further stated that Highland Oil would be held responsible for additional investigation and corrective action since Highland owned the gasoline tanks on site. Highland Oil was asked to prepare a CAP by July 17, 2000. Because the store's drinking water well is at risk, Highland Oil was also asked to sample the store's water supply well every two months.
9. DEQ received no response to this letter or to the NOV.
10. Because of the threat to public safety and the environment posed by the release, DEQ authorized Jenny Gaines by letter of June 1, 2000, to continue bimonthly analyses of the drinking water well for petroleum contamination and to perform bimonthly free product removal and gauging of the monitoring wells until Highland Oil takes over these duties.
11. DEQ met with the Watsons in late fall of 2000, and Mr. Watson agreed to remove Highland Oil's three tanks and remediate the contamination under a CAP as specified in Appendix A. The CAP Application was submitted to DEQ on March 5, 2001. DEQ approved the CAP and issued the CAP Permit on March 7, 2001. The approval specified that the tanks must be removed, and a CAP Implementation Report submitted to DEQ, by June 7, 2001.
12. The tanks were removed on June 27, 2001, and the necessary closure documentation was

provided to DEQ. Highland Oil has submitted a CAP Implementation Report, and will perform corrective action and carry out additional monitoring required by DEQ, as specified in Appendix A.

Maury River Oil Company

AST facility owned by Maury River at 172 Old Buena Vista Road, Lexington, VA 24450.

ODCP No. FC: 06-7083

Facility ID No. 6-017683

1. DEQ inspected the ASTs owned by Maury River at this facility on February 8, 2000, and documented deficiencies in an AST facility checklist. This checklist was sent to Mr. Watson on February 16, 2000, in Warning Letter No. 00-02-VRO-007 documenting apparent violations of the AST regulations. The Warning Letter contained a request that the company submit an explanation of corrective actions and a schedule by March 3, 2000. Corrective actions to address the compliance deficiencies are summarized in Appendix A.
2. The Warning Letter was sent certified mail and was returned to DEQ unclaimed on March 4, 2000. DEQ resent the Warning Letter via certified mail and regular mail on March 30, 2000, to both Mr. Watson on behalf of Maury River Oil and to the site operator. Mr. Watson's copy was returned unclaimed on April 24, 2000. DEQ received no response to the Warning Letter.
3. NOV No 00-VRO-06-004 was issued by DEQ to Maury River on June 14, 2000, citing the failure to address apparent violations of the AST regulation.
4. DEQ received no response to this NOV. The NOV, which had been sent certified mail, was returned to DEQ unclaimed on July 13, 2000.
5. DEQ subsequently met with the Watsons and hand-delivered copies of the Warning Letter and the NOV. Maury River has addressed some of the deficiencies identified in the NOV, and has agreed to a schedule, contained in Appendix A, to abate remaining violations at this facility.

Reynolds Chevron

AST facility owned by Reynolds Chevron, Inc., at 1027 Rockbridge Road, Glasgow, VA 24555.

ODCP No. FC: 06-7074

Facility ID No. 6-004232

1. DEQ inspected the ASTs owned by Reynolds Chevron at this facility on February 8, 2000, and documented deficiencies in an AST facility checklist. This checklist was sent to Mr. Watson on February 16, 2000, in Warning Letter No. 00-02-VRO-008 documenting apparent violations

of the AST regulations. The Warning Letter contained a request that the company submit an explanation of corrective actions and a schedule by March 3, 2000.

2. Mr. Watson responded to the Warning Letter by letter dated March 3, 2000. His response stated that most of the deficiencies would be corrected, but no schedule was provided to complete the corrections. Deficiencies in safe fill and shutdown procedures were not addressed.
3. NOV No 00-VRO-07-001 was issued by DEQ to Reynolds Chevron on July 11, 2000, citing the failure to address apparent violations of the AST regulation. DEQ subsequently met with the Watsons, who agreed to the schedule of corrective measures set out in Appendix A to address these apparent violations.
4. Reynolds Chevron provided AST registration information to DEQ on March 2, 2001; however, the registration was incomplete. A schedule to correct the deficiencies is provided in Appendix A.
5. Once leak detection has been installed on the diesel line, the facility's deficient ODCP can be approved.
6. On April 3, 2002, DEQ staff performed an inspection of the ASTs located at Reynolds Chevron. The inspection revealed continuing apparent violations.

Reynolds Chevron

UST facility owned by Reynolds Chevron, Inc., at 1027 Rockbridge Road, Glasgow, VA 24555.

Facility ID No. 6-004232

PC No. 00-6180

1. This UST facility has 5 USTs registered to Reynolds Chevron. Reynolds Chevron failed to meet the December 22, 1998, deadline for UST compliance at the facility as required by the Regulation. The failure was documented by a DEQ inspection of the facility conducted on August 11, 1999, in Warning Letter No. 99-08-VRO-010 dated September 1, 1999, and in NOV No 00-VRO-06-002 issued by DEQ on June 14, 2000, which cited an apparent violation of the UST Compliance Regulation. Corrective actions to address the compliance deficiencies are summarized in Appendix A.
2. Reynolds Chevron initially did not respond to either the Warning Letter or the NOV. The NOV, which was sent certified mail, was returned to DEQ unclaimed on July 13, 2000.
3. On June 21, 2000, Reynolds Chevron reported to DEQ that contaminated soils had been

observed during the removal of two used oil USTs. DEQ assigned a pollution complaint number, PC No. 00-6180, to the release.

4. DEQ requested submittal of an IAMR by August 10, 2000, and an SCR by September 11, 2000, to characterize the release and determine if corrective action is necessary. The IAMR was submitted to DEQ on August 7, 2000, and documented the presence of contaminated soils in the tank basin.
5. DEQ subsequently requested submittal of an SCR. The SCR was submitted October 16, 2000, and documented minimal risk to receptors from the dissolved phase contamination on site. The report recommended continued monitoring, but no remediation. DEQ concurred with the assessment of minimal risk, and closed the pollution complaint on January 16, 2001.
6. On April 3, 2002, DEQ staff performed a formal inspection of the USTs located at Reynolds Chevron. The inspection revealed continuing apparent violations.
7. Reynolds Chevron has agreed to a schedule of corrective action contained in Appendix A to bring the remaining tanks on site into compliance with the UST Compliance Regulations.

Riverside Auto Clinic

UST facility owned by Highland Oil at P.O. Box 89, U.S. Rt. 250, Churchville, VA 24421

Facility ID No. 6-018930

PC 02-6033

1. This UST facility has eight registered USTs in place. Six of these tanks are owned by Highland Oil. The operator voluntarily stopped selling gasoline in 1998. Seven of the tanks are out of service but improperly deactivated. One tank, used for storage of used oil, is still in use but is not owned by Highland Oil.
2. Highland Oil failed to meet the December 22, 1998, deadline for UST compliance at this facility as required by the Regulation. The failure was documented by a DEQ inspection of the facility conducted on July 22, 1999, in Warning Letter No. 99-07-VRO-009 issued by DEQ on July 30, 1999, and in NOV No 99-VRO-08-005 issued by DEQ on August 27, 1999, which cited an apparent violation of the UST Compliance Regulation.
3. DEQ received no response to the Warning Letter or the NOV until meeting with the Watsons in October 2000. Highland Oil agreed to properly close its registered tanks. All of Highland Oil's tanks were either removed or closed in place in October 2001, and complete closure documentation was provided to DEQ in December 2001.

4. On October 10, 2001, DEQ received notification that petroleum-contaminated soils had been found in the tank basin. DEQ assigned a pollution complaint number, PC 02-6033, to the release and requested that Highland Oil submit an IAMR by December 5, 2001, and an SCR by January 5, 2002. The IAMR was submitted December 3rd, and documented contamination below both the diesel tank and the gasoline tanks. The SCR, submitted January 14, 2002, documented minimal risk from the contamination and recommended no further action. DEQ closed the pollution complaint on January 30, 2002, and requested that the monitoring wells be abandoned by April 30, 2002. Highland Oil closed the monitoring wells on February 14, 2002, and submitted documentation of the well abandonment on April 2, 2002.

3-B BP Station

UST facility owned by Highland Oil at 2594 East Side Highway (US 340) Crimora, VA 24431

Facility ID No. 6-016919

PC 00-6148

1. This UST facility has six registered gasoline USTs in place owned by Highland Oil.
2. Highland Oil failed to meet the December 22, 1998, deadline for UST compliance at this facility as required by the Regulation. The failure was documented by DEQ in an inspection of the facility conducted on July 22, 1999, in Warning Letter No. 99-07-VRO-010 issued by DEQ on July 30, 1999, and in NOV No 99-VRO-12-003 issued by DEQ on December 20, 1999, which cited an apparent violation of the UST Compliance Regulation. Corrective actions to address the compliance deficiencies are summarized in Appendix A.
3. Mr. Watson responded to the Warning Letter by letter dated August 20, 1999, stating that Highland Oil would remove the two tanks not in service and the diesel tank on site. Two new 2000 gallon tanks would be installed upon receipt. He projected the work to be completed within 90 days.
4. On February 12, 2000, Larry Watson responded to the NOV and stated that the cathodic protection device on the upgraded tanks was now activated and in use, and that new replacement tanks were on site and would be installed when contractors were available.
5. On May 1, 2000, Highland Oil removed three USTs, and found petroleum contamination of soils. The release was reported to DEQ, and was assigned a pollution complaint number PC 00-6148. The three tanks were returned to Highland Oil's storage yard in Highland County.
6. Highland Oil, through its consultant Earth Environmental, conducted initial soil and groundwater monitoring and submitted an IAMR on June 8, 2000. Free product and contaminated soils were removed from the tank basins.

7. Highland Oil submitted the SCR on August 7, 2000, characterizing the release and the impact to neighboring receptors. DEQ has taken steps to provide a temporary alternate water supply for the two impacted drinking water wells by adding carbon filtration units on July 17, 2000.
8. On September 25, 2000, DEQ notified Highland Oil that a CAP must be developed to address on site remediation and monitoring under a DEQ permit. The CAP was due on November 27, 2000.
9. Highland Oil submitted the CAP on November 27, 2000, outlining steps to remediate soil and groundwater contamination on site. DEQ has approved the CAP and on January 24, 2001, issued a permit to begin corrective action. Highland Oil has agreed to carry out the CAP in accordance with Appendix A.
10. Highland Oil will sell the remaining tanks on site to Michael Coffey and Kenneth Chittum once the upgrade of the tanks is complete. Highland Oil has agreed to complete the upgrade in accordance with the schedule in Appendix A.

Village Market

UST facility owned by Highland Oil at 19775 McGaheysville Road, McGaheysville, VA 22840
Facility ID No. 6-016932

1. This UST facility had three registered gasoline USTs in place owned by Highland Oil. Highland Oil removed the tanks in 1996, but failed to supply proper documentation to DEQ. DEQ inspected the facility on July 8, 1999, and on September 2, 1999, sent Warning Letter No. 99-09-VRO-001 to Highland Oil requesting complete documentation for the closure and providing a closure fact sheet summarizing the regulatory requirements for proper closure.
2. DEQ received no response to the Warning Letter, and sent NOV No. 99-VRO-12-001 to Highland Oil on December 20, 1999. Highland Oil submitted documentation to DEQ on March 15, 2000, demonstrating that the tanks had been closed in accordance with the UST Compliance Regulation. No further action by Highland Oil is necessary on this site.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority of Va. Code §§ 62.1-44.15 (8a) and (8d) 62.1-44.34:18(C)(1), and 62.1-44.34:20 (A), (C), and (D) orders the Companies and the Companies agree

that:

1. To remedy the violations described above and bring the facilities into compliance with the applicable regulations, the Companies shall perform the actions described in **Appendix A** to the Order.
2. For the above-cited violations, the Highland Oil Company owes civil charges as follows:

Bulk Plant	\$12,308	Highland Oil
East Lexington Store	\$12,402	Highland Oil
Kerr's Creek General Store	\$18,692	Highland Oil
Riverside Auto Clinic	\$14,527	Highland Oil
3-B BP Station	\$14,645	Highland Oil

However, Highland Oil submitted financial information to DEQ documenting its inability to pay civil charges above and beyond the cost of returning to compliance. The civil charge will therefore not be assessed.

3. For the above-cited violations, Maury River Oil Company shall pay civil charges as follows:

Maury River Oil Co AST	\$6,641
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\$4,981 of this civil charge shall be satisfied upon completion by Maury River of a SEP pursuant to Virginia Code 10.1-1186.2 and as described in Appendix B1 of this Order, and the balance of \$1,660 shall be remitted to DEQ in accordance with Paragraph 6 below. In the event that the SEP is not performed as described in Appendix B2, upon notification by the Department, Maury River shall pay the amount specified above within 30 days of such notification according to the procedures specified in Paragraph 6 below, unless an alternate project has been agreed upon by the parties.

4. For the above-cited violations, Reynolds Chevron shall pay civil charges as follows:

Reynolds Chevron AST	\$2,183
Reynolds Chevron UST	\$15,194

\$5,330 of this civil charge shall be satisfied upon completion by Reynolds Chevron of a SEP pursuant to Virginia Code 10.1-1186.2 and as described in Appendix B2 of this Order, and the balance of \$12,047 shall be remitted to DEQ in accordance with Paragraph 6 below. In the event that the SEP is not performed as described in Appendix B3, upon notification by the

Department, Reynolds Chevron shall pay the amount specified above within 30 days of such notification according to the procedures specified in Paragraph 6 below, unless an alternate project has been agreed upon by the parties.

5. Payment of the above charges shall be made within 30 days of the effective date of the Order. Payment shall be by checks, certified checks, money orders, or cashier's checks payable to "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

The Companies shall provide each company's Federal Identification Number with the checks for the civil charges.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the Companies, for good cause shown by the Companies, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those violations specifically identified herein. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facilities as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, the Companies admit the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. The Companies consent to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The Companies declare they have received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Water Control Law and they waive the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing

herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by the Companies to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The Companies shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The Companies shall show that such circumstances were beyond their control and not due to a lack of good faith or diligence on its part. The Companies shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

the reasons for the delay or noncompliance;

the projected duration of any such delay or noncompliance;

the measures taken and to be taken to prevent or minimize such delay or noncompliance;

and

the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the Companies. Notwithstanding the foregoing, the Companies agree to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the Companies. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Companies from their

obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

By the signatures below, the Companies voluntarily agree to the issuance of this Order.

And it is so ORDERED this ____ day of _____, 2002.

Robert G. Burnley, Director
Department of Environmental Quality

The terms and conditions of the Order are voluntarily accepted by the Companies:

Date: _____ By: _____ as
President of Highland Oil Company, Inc.

Date: _____ By: _____ as
President of Maury River Oil Company, Inc.

Date: _____ By: _____ as
President of Reynolds Chevron, Inc.

State of Virginia
City/County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2002, by

_____ on behalf of Highland Oil Company, Inc., Maury River Oil
Company, Inc., and Reynolds Chevron, Inc.

Notary Public

My commission expires:

Appendix A

FOR ALL FACILITIES:

For all UST and/or AST facilities closed in lieu of an upgrade, if evidence of an actual or suspected release of petroleum is found during tank closure, the release must be reported immediately to DEQ. The Companies shall respond in a timely fashion to all DEQ requests for initial abatement, site characterization, and if necessary, site clean-up as required by the LUST Regulation.

For any UST facilities where any of the Companies are determined by DEQ to be the Responsible Party, the Responsible Party shall promptly respond to any deficiency letters to bring those facilities into compliance with the UST Compliance Regulation.

For any AST facilities where any of the Companies are determined by DEQ to be the Responsible Party, the Responsible Party shall promptly respond to any deficiency letters to bring those facilities into compliance with the AST Regulation.

BULK PLANT

AST facility owned by Highland Oil in Monterey, VA
Facility ID No. 6-016925
PC 00-6178

By December 31, 2002, address deficiencies in the ODCP submitted to DEQ and submit an approvable ODCP application and fee to DEQ for the facility's ASTs.

By December 31, 2002, complete corrective action to address the following identified compliance deficiencies at this facility and submit documentation to VRO by that date in accordance with 9 VAC 25-91-10 *et seq.* that the required corrective action has been completed:

- all tanks on site must be registered;
- conduct pressure testing of piping and submit test results;
- perform and document leak detection on tanks; submit one month of records to DEQ;
- perform and document leak detection on lines; submit one month of records to DEQ;
- conduct and document daily inspections and submit one month's records to DEQ;
- conduct and document weekly inspections and submit one month's records to DEQ;
- establish an employee training program and submit supporting documentation;
- conduct personnel training and submit record of training;
- address safe fill and shutdown deficiencies and provide documentation to DEQ, including the need to document procedures, vehicle spill containment must contain adequate capacity to meet federal and state standards, all tanks need gauges; all tanks must be marked with capacity and tank ID.

By December 31, 2002, secondary containment must be installed and certified by a Professional Engineer to comply with 40 CFR 112, NFPA 30, and 29 CFR 1910.106 and results submitted to DEQ.

For PC 00-6178, respond to any further requests by DEQ for SCR Addenda and/or CAP by the dates specified by DEQ. Assure that all leaks are promptly contained and/or repaired.

EAST LEXINGTON STORE

UST Facility owned by Highland Oil at 2 Old Buena Vista Road, Lexington, VA 24450.

Facility ID No. 6-016928

By December 31, 2002, complete the following required upgrades or closures at this facility:

Upgrade the facility to provide corrosion protection and release detection for the registered tanks in use.

Provide DEQ a copy of the internal integrity assessment conducted prior to the upgrade of each tank and a copy of the building permit for the upgrade. If the tanks are adequate for upgrade, either install cathodic protection, internal lining, or both, and provide copies of documentation. If the tanks are not adequate for upgrade, close the USTs and submit the supporting documentation to DEQ.

If cathodic protection is added, have the building inspector inspect(if required) prior to bringing it into use. Ensure that associated piping and all buried steel components that regularly contain product are sufficiently protected from corrosion. Conduct and submit passing results for the 6 month corrosion protection tests. If adding impressed current, begin maintaining the required 60-day log and submit a copy of the first record to DEQ.

Begin performing a valid form of release detection on the tanks and submit a complete, accurate passing result for each tank for three consecutive months. Provide a copy of the tank tightness test.

Install line leak detection and submit the first annual passing test results for each. Submit a copy of the first annual passing line tightness test for each corresponding piping run one year after the initial test is submitted.

Provide documentation that adequate spill and overfill protection devices have been installed on each system.

Submit accurate, up to date registration forms for the facility in accordance with 9 VAC 25-580-70 reflecting the full upgrade and the selected forms of release detection for each UST

once installation is complete.

For tanks and piping closed in lieu of upgrading, including piping associated with the tank island removed for the VDOT road widening project and the 2 kerosene tanks referenced in Highland Oil's February 12th letter, complete the closure in accordance with 9 VAC 25-580-320 by taking soil samples from each tank basin, along the piping (every 20 to 30 feet), and from under each dispenser, and submit copies of the analytical results and the corresponding chain of custody in accordance with 9 VAC 25-580-330 that closure for both the tanks and the piping is complete.

KERR'S CREEK GENERAL STORE

UST facility owned by Highland Oil at 2602 W. Midland Trail, Lexington, VA 24450

Facility ID No. 6-016929

PC No. 99-5230 (Gaines diesel release)

PC No. 00-6066 (Highland Oil gasoline release)

Implement the approved CAP permit in accordance with 9 VAC 25-580-290 to address the significant gasoline contamination found on site following the schedule approved by VRO staff. Submit any necessary CAP addenda to address additional corrective action, which may include additional aggressive free product recovery, and the establishment of remedial end-points for vapor phase, residual phase, and dissolved phase contamination.

As part of the CAP, continue sampling of the domestic water supply wells every two months and provide a copy of the test results to VRO.

MAURY RIVER OIL COMPANY

AST Facility owned by Maury River at 172 Old Buena Vista Road, Lexington, VA 24450.

ODCP No. FC: 06-7083

Facility ID No. 6-017683

By December 31, 2002, complete corrective action to address the following identified compliance deficiencies at this facility and submit documentation to VRO in accordance with 9 VAC 25-91-10 *et seq.* that the required corrective action has been completed:

- keep all records for five years;
- find pressure test records for lines, or retest and submit test results;
- monitoring well was either covered or destroyed. Need to find or replace and provide documentation to VRO;
- begin performing groundwater monitoring for lines to the dispensers and provide one month's record to VRO;

- conduct a certification or evaluation of the secondary containment for the ASTs for compliance with 40 CFR 112, NFPA 30, and 29 CFR 1920.106, and submit documentation to VRO;
- train new employees, document training, and submit record of employee training and a copy of the training program to VRO;
- address safe fill and shutdown deficiencies and submit documentation to VRO, including the need for vehicle spill containment at the loading rack, for gauges on tanks 1, 2, and 3, for calibration of existing gauges, and for tank markings.

By December 31, 2002, submit a certification for renewal of the facility's ODCP, which expires May 20, 2002.

REYNOLDS CHEVRON

AST Facility owned by Reynolds Chevron, Inc., at 1027 Rockbridge Road, Glasgow, VA 24555.

ODCP No. FC: 06-7074

Facility ID No. 6-004232

By December 31, 2002, complete corrective action to address the following identified compliance deficiencies at this facility and submit documentation to VRO in accordance with 9 VAC 25-91-10 *et seq.* that the required corrective action has been completed:

- assure that inventory records are kept for 5 years;
- provide documentation that leak detection for diesel line and the two vertical ASTs has been installed so that the facility's ODCP can be approved;
- address safe fill and shutdown deficiencies and provide documentation to VRO, including the need for tank markings on the diesel AST, for vehicle spill containment at the unloading and loading area, for gauges on the diesel AST, the need for calibration of gauges on the kerosene and #2 fuel oil ASTs.
- perform and record daily inspections of the ASTs, their associated piping, and the dike area.

By December 31, 2002, correct deficiencies in the facility's AST registration by providing data missing from Section III "Contact Information," Section IV "Location of Tanks," and Section XI "Financial Responsibility."

REYNOLDS CHEVRON

UST Facility owned by Reynolds Chevron, Inc., at 1027 Rockbridge Road, Glasgow, VA 24555.

Facility ID No. 6-004232

PC No. 00-6180

By October 31, 2002, complete the following required upgrades or closures at this facility:

For the upgrades, correct identified deficiencies in the facility's upgrade to provide spill and overfill protection, corrosion protection, and release detection. Provide results to VRO.

Specific inspection deficiencies to be corrected include:

- Submit current passing corrosion protection tests for the premium and plus gasoline tanks;
- While release detection has been initiated on all four tanks, an adequate drop tube needs to be installed in each for Statistical Inventory Reconciliation to be considered valid for the three gasoline tanks.
- Submit supporting documentation to verify that all three gasoline tanks have an overfill device (e.g., ballfloat) installed.
- Submit supporting documentation verifying that each piping run associated with the three gasoline tanks has corrosion protection.
- Submit Financial Assurance documentation.

Submit accurate, up to date registration forms for the facility in accordance with 9 VAC 25-580-70 for the tank upgrade once the upgrade is complete. Assure that all tanks currently in use have accurate registration information on file with VRO including the new tank installed in June 2000. (An amended Notification form 7530-1 may not have been submitted to reflect the correct material type of each piping run associated with the gasoline tanks in accordance with 9 VAC 25-580-70 paragraph A. A Notification form submitted indicates that the piping is non-metallic, however, the Formal inspection conducted August 11, 1999 suggested that the piping was cathodically protected steel.)

Submit three consecutive months of valid, passing release detection results for the new tank.

For tanks and piping closed in lieu of upgrading, complete the closure in accordance with 9 VAC 25-580-320 and submit documentation in accordance with 9 VAC 25-580-330 once closure is complete. Closure documentation for the used oil tank is complete except for a letter stating that tank #6, which was originally registered as a kerosene tank, was actually a used oil tank.

3-B BP STATION

UST facility owned by Highland Oil at 2594 East Side Highway (US 340) Crimora, VA 24431

Facility ID No. 6-016919

PC 00-6148

For the three partially upgraded tanks, **by October 31, 2002**, complete the repair and assessment of the impressed current system. Specific documentation to be provided includes:

- conduct a new internal assessment to verify that corrosion has not occurred as a

result of the cut wire on the cathodic protection system;
--repair and test the impressed current system and provide documentation reflecting that the cathodic protection system was evaluated and found to be sound. Provide the inspection report from the local Building Official before bringing the system into use;

For PC 00-6148, implement the approved CAP to address remediation and monitoring of the confirmed release of petroleum on site and provide CAP monitoring reports as specified by DEQ.

APPENDIX B-1
Maury River Oil Company SEPs

1. Some portions of the piping at the facility which run from the ASTs to the loading rack are underground, while other parts are visible in an open trench. The Supplemental Environmental Project proposed by Maury River is replacement of the underground piping with above-ground piping to allow for improved leak detection and protection of the environment. Maury River has also proposed a SEP to add ball valves to piping at the loading rack to allow an immediate pollution prevention measure to stop a release in the event of piping failure or other emergency.
2. The cost of the SEPs to Maury River shall not be less than \$4,981. In the event that the final cost of the SEPs is less than this amount, Maury River shall pay the remainder of the amount to the Commonwealth of Virginia, unless otherwise agreed to by the Department.
3. Maury River acknowledges that it is solely responsible for completion of the SEP projects. Any delegation of funds, tasks, or otherwise by Maury River to a third party, shall not relieve Maury River of its responsibility to complete the SEPs as contained in this Order.
4. The SEPs shall be completed **by December 31, 2002**, by Maury River.
5. Maury River shall provide the Department with verification of completion of the SEPs within 30 days of replacement of the line and addition of the ball valves. Maury River shall also submit verification to the Department in the form of purchase orders of the final overall cost of the SEPs within 30 days of the project completion date.
6. In the event that Maury River publicizes the SEPs or the results of the SEPs, Maury River shall state in a prominent manner the project is part of a settlement for an enforcement action.
7. The Department has the sole discretion to determine whether the SEP has been completed in a satisfactory manner.

APPENDIX B-2
Reynolds Chevron SEPs

1. Reynolds Chevron will install a Release Prevention Barrier and visual monitoring system for two ASTs. The SEP will provide enhanced leak detection by raising the tanks, strengthening the floor of the dikes and the tank bases, and placing an inert release prevention barrier between the tanks and the concrete floor of the dike to prevent future electrolysis, and elevating the tanks to allow for visual monitoring. Reynolds Chevron also proposes to replace an existing diesel line with double-walled piping for enhanced release prevention.
2. The cost of the SEPs to Reynolds Chevron shall not be less than \$5,330. In the event that the final cost of the SEPs is less than this amount, Reynolds Chevron shall pay the remainder of the amount to the Commonwealth of Virginia, unless otherwise agreed to by the Department.
3. Reynolds Chevron acknowledges that it is solely responsible for completion of the SEP projects. Any delegation of funds, tasks, or otherwise by Reynolds Chevron to a third party, shall not relieve Reynolds Chevron of its responsibility to complete the SEPs as contained in this Order.
4. The SEPs shall be completed **by December 31, 2002**, by Reynolds Chevron.
5. Reynolds Chevron shall provide the Department with verification of completion of the SEPs within 30 days of installation of the enhanced leak detection and release prevention measures. Reynolds Chevron shall also submit verification to the Department in the form of purchase orders of the final overall cost of the SEPs within 30 days of the project completion date.
6. In the event that Reynolds Chevron publicizes the SEPs or the results of the SEPs, Reynolds Chevron shall state in a prominent manner the project is part of a settlement for an enforcement action.
7. The Department has the sole discretion to determine whether the SEP has been completed in a satisfactory manner.